

and worked whenever he was called. When called, he skipped work in the family insurance business. His insurance earnings of \$15 per day were subsidiary remuneration.

(3) While unemployed from her railroad job, a claimant took a job as a school bus driver. She worked from 7 a.m. to 9 a.m., and 2:30 p.m. to 5:30 p.m. Her regular railroad job was a daytime job from 8 a.m. to 4:30 p.m. Her pay as a school bus driver was not subsidiary remuneration because the job was not compatible with the holding of full time work in her regular railroad occupation.

[65 FR 14460, Mar. 17, 2000]

PART 323—NONGOVERNMENTAL PLANS FOR UNEMPLOYMENT OR SICKNESS INSURANCE

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AUTHORITY: 45 U.S.C. 362(1).

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§ 323.1 Introduction.

(a) This part defines the phrase *nongovernmental plan for unemployment or sickness insurance* and sets forth the procedure by which an employer may obtain a determination by the Railroad Retirement Board as to whether a particular plan that such employer maintains for its employees qualifies as a nongovernmental plan. In general, any payment by an employer to an employee for services rendered as an employee will be considered to be *remuneration* within the meaning of section 1(j) of the Railroad Unemployment Insurance Act and part 322 of this chapter. This includes employer payments that relate to an employee's loss of earnings during a period of time when

the employee is unemployed or sick, including sickness resulting from injury. The exception is when an employer pays an employee a benefit pursuant to the provisions of a nongovernmental plan for unemployment or sickness insurance established by an employer for the benefit of its employees. Benefit payments under such plans are not remuneration and do not affect an employee's eligibility for unemployment or sickness benefits under the Railroad Unemployment Insurance Act.

(b) This part does not have any general applicability to private insurance contracts under which an insurance company, pursuant to a policy of insurance maintained by or for an employee, pays medical or hospital expenses or other cash benefits to or in behalf of an employee. Nor does this part apply to any private plan for relief of unemployment established by a party other than an employer such as, for example, a plan established by a labor union under which it undertakes to pay benefits to striking members of the union out of a strike insurance fund. Insurance policy benefits and strike unemployment benefits, although paid under plans that are nongovernmental in nature, are not considered remuneration for services under the general definition of *remuneration*. See part 322 of this chapter.

§ 323.2 Definition of nongovernmental plan for unemployment or sickness insurance.

A nongovernmental plan for unemployment or sickness insurance is a benefit plan, program or policy that is in the nature of insurance and is designed and established by an employer for the purpose of supplementing the benefits that an employee of such employer may receive under the Railroad Unemployment Insurance Act during a period of unemployment or sickness. A nongovernmental plan may be established by labor-management agreement or by unilateral employer action. Payments under such plans are referred to as supplemental unemployment benefits (SUB pay) or supplemental sickness benefits, rather than as wages, salary or pay for time lost, because their inherent nature is to supplement benefit payments under the Railroad